

EUGENE O. COLLEY

IBLA 82-1290

Decided December 13, 1983

Appeal from decision of the Utah State Office, Bureau of Land Management, dismissing protest against the validity of first-drawn application for oil and gas lease U-50390.

Affirmed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents -- Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease application is properly signed by a corporate agent in accordance with 43 CFR 3112.2-1(b) (1981) where the application is manually signed by the agent's employee identifying her position with the corporation and the name of the applicant. The employee is not also required to manually sign the applicant's name to conform to the terms of the agency agreement.

2. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents

Departmental regulation 43 CFR 3102.2-6(b) (1981) required that an oil and gas lease applicant assisted by a filing service agent provide a copy of the agreement authorizing the agent to perform services on behalf of the applicant. Where the filing service agent was a corporation, it was not required to submit proof of the authority of the employee executing the application to act for the filing service.

APPEARANCES: Melvin E. Leslie, Esq., Salt Lake City, Utah, for appellant; J. Gregory Crum, Esq., Malibu, California, and Jason R. Warran, Esq., Washington, D.C., for appellee James C. Clary.

#### OPINION BY ADMINISTRATIVE JUDGE BURSKI

Eugene O. Colley has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated July 17, 1982, which dismissed his protest against issuance of oil and gas lease U-50390 to James C. Clary whose simultaneously filed oil and gas lease application was drawn with first priority for parcel UT 112 in the November 1981 simultaneous drawing. Colley had

protested the drawing alleging that Clary's application had been submitted by a lease filing service which had failed to meet certain regulatory requirements regarding preparation of the lease forms. BLM found that the governing regulations had been complied with in that proper procedures were followed by the leasing service and dismissed the protest.

The record shows that Clary's application for parcel UT 112 was prepared and submitted by Federal Lease Filing Corporation (FLFC) in the November 1981 simultaneous drawing. The application was signed as follows: "P. Rosecrans [handwritten in ink], Asst. Sec. Federal Lease Filing Corporation, Agent for James C. Clary." In the section for qualifications previously filed, the agent referred to CA-3000 as the serial number where its qualifications could be located.

Subsequent to this drawing the State Office requested verification from the BLM California State Office that FLFC was authorized to act for James C. Clary as indicated. The California State Office responded that FLFC's qualifications were accepted August 31, 1981, and the term of the agreement was August 20, 1981, to August 20, 1983. The State Office further determined that as of November 17, 1981, FLFC appointed P. Rosecrans to Assistant Secretary for the purpose of signing simultaneous oil and gas lease application cards for clients of FLFC with an effective date of November 1 through November 23, 1981. Although the document of appointment was dated November 17, 1981, it was not received by the California Office of BLM until December 24, 1981.

Appellant contends that Clary's offer was executed improperly because FLFC's employee, P. Rosecrans (Phyllis Rosalind Rosecrans) was not authorized by the agency agreement to manually sign her own name. He refers to the agency agreement executed by Clary July 6, 1981, which provided in pertinent part:

"I, James C. Clary authorize FEDERAL LEASE FILING CORPORATION to act as my agent, and to affix my signature by manually signing my name, to any document required in connection with filing noncompetitive applications for Federal Oil and Gas Leases (Federal Lease Filing Corporation is authorized to affix a facsimile of my signature on applications used by state agencies). . . ." (emphasis added)

From this he concludes:

In not signing Clary's name manually on this Application in addition to her own she failed to follow the express directions of this most important agreement as regards the Clary-Federal principal-agency relationship. For this reason it was an invalid exercise of the powers granted by Clary to Federal and must result in Clary's Application being similarly invalid. [Emphasis in original.]

(Statement of Reasons at 7).

[1] We disagree with appellant's strained construction of this authorization. The governing regulation in 43 CFR 3112.2-1(b) (1981) 1/ provides:

The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamp signatures shall not be used.

The application must show the relationship between the applicant and the party signing the application. Compliance with this regulation requires only the holographic signature of the name of the signing employee of the corporate agent. Charles Goodrich, 60 IBLA 26 (1981), aff'd, Goodrich v. Watt, No. 82-0405 (D.D.C. Aug. 13, 1982). An additional signing of the applicant's name in these circumstances would not be needed for identification of the applicant. Moreover, a reasonable interpretation of the agency agreement in question would infer the authority to print, type, or affix Clary's name to the application, along with manually signing his name in order to properly file applications.

[2] Appellant also contends Clary's offer should be rejected on the basis that FLFC's qualifications were not current in that the appointment of its employee P. Rosecrans to Assistant Secretary for signing oil and gas lease application cards was not filed properly with BLM, i.e., after Clary's application was filed, and, therefore, the reference to file CA-3000 on the application could not be used under the language of 43 CFR 3102.2-1(c) (1981). That regulation permitted trustees, guardians, corporations, agents, and municipalities to file their statements of qualifications with only one BLM state office which would assign a serial number to the statement so that reference to the statement could be made in documents filed with other state offices. The last sentence of this regulation provided: "Amendments to a statement of qualifications shall be filed promptly and the serial number shall not be used if the statement on file is not current." This regulation, however, did not specify what information a file must contain in order to be considered current, but it identified 43 CFR 3102.2-6 (1981) as the regulation concerning statements filed by agents.

That regulation provided as follows:

(a) Any applicant receiving the assistance of any other person or entity which is in the business of providing assistance to participants in a Federal oil and gas leasing program shall submit with the lease offer, or the lease application if leasing is in accordance with Subpart 3112 of this title, a personally

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1/ Although the oil and gas regulations governing the filing of simultaneous oil and gas lease applications have been revised (see 47 FR 8544 (Feb. 26, 1982); 48 FR 33648 (July 22, 1983)), the regulations applicable in this case were those in effect when the applications were filed.

signed statement as to any understanding, or a personally signed copy of any written agreement or contract under which any service related to Federal oil and gas leasing or leases is authorized to be performed on behalf of such applicant. Such agreement or understanding might include, but is not limited to: A power of attorney; a service agreement setting forth duties and obligations; or a brokerage agreement.

(b) Where a uniform agreement is entered into between several offerors or applicants and an agent, a single copy of the agreement and the statement of understanding may be filed with the proper office in lieu of the showing required in paragraph (a) of this section. A list setting forth the name and address of each such offeror or applicant participating under the agreement shall be filed with the proper Bureau of Land Management office not later than 15 days from each filing of offers, or applications if leasing is in accordance with Subpart 3112 of this title.

In recent cases of Stanley L. Slater, 74 IBLA 357 (1983), and Tommy L. Alford, 71 IBLA 29 (1983), the Board considered and rejected the same arguments pressed on appeal. In similar circumstances we noted that subsection (b) contains no requirement that a corporate filing service also file a list of employees authorized to sign offers on behalf of its clients. We held that where a filing service agent is a corporation, it is not required to submit proof of the authority of the employee executing the application to act for the filing service. We adhere to these rulings. As we stated "regardless of the fact that written evidence of the authorization of FLFC's employee to sign applications was not received by BLM until after the drawing, the employee had apparent authority to sign the application which is sufficient to bind the filing service in the absence of written authorization." Stanley L. Slater, *supra* at 359. Thus, FLFC's failure to file a copy of Rosecran's appointment at the time of the drawing did not render its statement of qualifications "not current" within the meaning of 43 CFR 3102.2-1(c). Accordingly, BLM properly dismissed this protest.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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James L. Burski  
Administrative Judge

We concur:

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Will A. Irwin  
Administrative Judge

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C. Randall Grant, Jr.  
Administrative Judge

